



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Utah State Office

P.O. Box 45155

Salt Lake City, UT 84145-0155

IN REPLY REFER TO:

3500 (UT-923)

UTU- 060749

APR 28 2003

CERTIFIED MAIL--Return Receipt Requested  
Certification No.

Mr. Earl White  
American Gilsonite Company  
Bonanza, Utah 84008

Re: Road and surface pillar for Federal Gilsonite Lease UTU-060749

### Notice of Non-Compliance

On Monday March 31st 2003, BLM conducted its quarterly inspection for Federal Gilsonite lease UTU – 060749. During the inspection we noted that the surface barrier pillar may be of thinner than the 35 foot minimum required by the stipulations in the Mine Plan approval. The mine plan provides that the barrier pillar must be at least 35 feet and no more than 50 feet thick with out prior approval of BLM. Measurements taken during the inspection suggested that the surface barrier pillar was approximately 33 feet but the map provided by the company showed the barrier pillar is about 15 feet in thickness in some places.

During the inspection BLM noted that a road that went around a small hill was being used but it was not part of the approved mining plan. The company stated that this was an oversight and the road had been there for some time because there was an old mine (WH-5) that ore was trucked out using this road. BLM agreed with the company that using the road that was in the mine plan would be dangerous with a truck loaded with gilsonite especially during wet conditions.

During the inspection we also determined that the mining plan had been altered due to poor rib conditions in the mine. The mining consisted of mining drifts of 12 feet high and leaving 10 feet of ore in order to minimize exposure to the miners due to poor rib conditions, rather than the stoping provided in the approved mine plan.

American Gilsonite Company must obtain modifications to the mining plan **prior** to modifying operations. The regulations provide to obtain approval of an exploration or mining plan modification, the operator/lessee shall submit a written statement of the proposed modification and the justification for such modification. Any proposed exploration or mining plan modifications(s) shall **not be implemented** unless previously approved by the authorized officer." (43 CFR 3592.1(d)(1)-emphasis added).

Requirements to Correct the Mining Plan Non-compliance: American Gilsonite must submit the following information to BLM within 30 days of receipt of this Notice of Non-Compliance;

1. Request for modification of the mining plan to include the following;
  - a. Utilization of the road around the small hill. A request and map is required for this submittal and any information showing that this road was utilized during prior mining.

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DIV. OF OIL, GAS & MINERAL

- b. A drawing of the mining plan changes and the reasons for using the drift – pillar – drift method of extraction of ore versus the stoping method of mining.
  - c. A drawing with the location of the gate to be installed on the road to the mine.
2. Due to the apparent discrepancy between the map provided by the company and the measured barrier pillar dimension, a survey of the mine by a licensed surveyor must be completed in order to determine the surface barrier pillar situation. If the pillar is less than 35 feet or greater than 50 feet as stated in the Mine Plan Approval dated June 27, 2000, American Gilsonite must submit a request for variance and submit proper mitigation of the surface pillar size.

Compliance Failure: Failure to comply with this Notice of Non-Compliance will result in a cessation of operations order being placed on the lease.

#### Appeal Rights

Following the compliance period, you then have 30 calendar days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar days following at the end of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that you appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors granting the stay.

Sincerely,

James F. Kohler  
Chief, Solid Minerals Branch

cc: Mary Ann Wright, Utah Division of Oil, Gas and Mining, 1594 west North Temple, P.O. Box 145801  
Salt Lake City, Utah 84114-5801